



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/564,225

05/23/2006

Matthias Wellhoefer

10191/4159

7449

26646

7590

09/25/2008

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

AMRANY, ADI

ART UNIT

PAPER NUMBER

2836

MAIL DATE

DELIVERY MODE

09/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/564,225	WELLHOEFER ET AL.	
	Examiner	Art Unit	
	ADI AMRANY	2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicants' arguments filed September 4, 2008 have been fully considered but they are not persuasive. Regarding Schumacher, the reference is available as prior art under §102(a). Accordingly, it is not disqualified under §103(c), which applies only to references applied under §102(e)-(g).

Regarding the amended limitations of a pressure inlet opening, it is inherent that a pressure sensor requires some connection to the atmosphere of the environment it is mean to sense. To place a pressure sensor in an air-tight box defeats the purpose of the sensor; as it will never sense a pressure change. Thus, an inlet opening (a redundant phrase) is an inherent feature of an adiabatic pressure sensor. Since the pressure sensor with inlet opening is disclosed by APA, it is not necessary that Schumacher disclose these features as well.

Contrary to applicants' Remarks (page 8, last paragraph), the Schumacher side impact sensor (2) is affiliated with the control device (10). The connection is clearly shown in figure 1 through the line connecting the sensor (2) and processor (4) and the arrows which show the direction of data flow. Applicants' arguments that Schumacher does not show one housing comprising the components is not persuasive, as this limitation is disclosed by APA. Further, the limitation of "assigned to the housing" does not necessarily require that the plausibility sensor is inside the housing. The interpretations of this broad phrase were provided in the non-final rejection (July 2, 2008). Applicants have not responded to or rebutted this interpretation.

The claim is written in broad terminology that is open to many possible interpretations, including that the vehicle itself is the “housing.” The cracks in the doors, the windows, etc. can all be the inlets/openings to allow the outside air to reach the pressure sensor.

Applicants’ Remarks (page 8) argue against the references individually. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As discussed, above, the §103(a) rejection of the claims in view of APA and Schumacher is not disqualified due to common ownership.

Applicants’ arguments (Remarks, pages 9-11) regarding the combination of references are not persuasive. APA discloses all of the components. The only limitation not disclosed by APA is that the plausibility sensor is a “switch.” Schumacher discloses that a sensor uses a switch, so that it is triggered upon the sensed value exceeding a threshold (col. 3, lines 42-52). The references are clearly analogous. The motivation to combine the references is provided by Schumacher.

Similarly, Mazur discloses the plausibility sensor is a switch. It is unclear how the substance of the Mazur abstract rebuts this assertion.

Lastly, new claims 17-27 repeat the limitations of rejected claims 11-15, except that in some claims, they are provided in different combinations. These limitations were rejected in view of APA and Schumacher. Applicants have not responded to or rebutted these rejections.

Information Disclosure Statement

The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

Contrary to applicants' remarks (page 6), copies of the foreign references cited in the search report have not been provided with the September 4th amendment.

Drawings

2. Replacement figures 1 and 3-4 were received on September 4, 2008. These drawings are acceptable and will be entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA (APA, specification, pages 1-2), in view of Schumacher (US 7,137,645).

With respect to claim 9, APA discloses a device for a detection of a side impact to a vehicle comprising a pressure sensor with a pressure inlet opening (inherent), and a plausibility sensor (page 1, lines 7-13). Schumacher discloses a device for detecting a vehicle side impact (fig 1; col. 2-3), comprising a side-impact sensor (2) and a plausibility sensor (5; col. 3, lines 42-67) being a switch that is assigned to the housing of the side-impact sensor (10).

Claim 1 recites that the switch of the plausibility sensor is “assigned” to the housing of the pressure sensor. This is distinguished from placing that switch inside the housing of the pressure sensor. Support for this interpretation can be found by the ordinary meaning of “assigned to” and by the limitation of claim 10, which places the switch inside the housing.

APA and Schumacher are analogous because they are from the same field of endeavor, namely impact detectors. At the time of the invention by applicants, it would have been obvious to one skilled in the art to combine the sensors disclosed in APA

Art Unit: 2836

with the switch disclosed in Schumacher in order to trigger the safety device only when a critical threshold is exceeded (Schumacher, col. 5, lines 42-52).

With respect to claim 10, Schumacher discloses the switch is situated in the housing (item 5 is in housing 10).

With respect to claim 11, APA discloses Hamlin switches are widely used in plausibility sensors (page 2, lines 4-30).

With respect to claims 12-13, Schumacher discloses the switch is connected directly to an ignition output stage (7) to release the stage as a function of its state (fig 1; col. 1, lines 21-25; col. 2, lines 50-58; col. 3, lines 42-48). Schumacher also discloses a processor (4) for releasing the output stage (7) as a function of the switch (col. 3-4).

With respect to claim 14, Schumacher discloses the switch is situated in such a way that the switch interrupts a data transmission from the side-impact sensor to the processor, as a function of its state (col. 3, lines 42-67). Schumacher discloses that the switch (5) and timer (6) turn off the ignition-control circuit (7), such that “a data transmission” (via items 1, 5, 6, 7 and 4) is interrupted.

With respect to claim 15, Schumacher discloses the signal of the switch (input to 5) is coded directed with the output of the impact sensor (1). APA discloses the impact sensor is a pressure switch.

With respect to claim 16, Schumacher discloses a sensor for detection of a side impact to a vehicle (fig 1) comprising a housing (5) and a switch situated in the housing (col. 3). As discussed above, APA discloses a pressure sensor with a pressure inlet.

With respect to claims 17-27, APA and Schumacher disclose the recited limitations, as discussed above in the rejections of claims 11-15.

5. Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' admitted prior art in view of Mazur (US 5,504,379).

APA discloses a device for a detection of a side impact to a vehicle comprising a pressure sensor with an inlet and a plausibility sensor. APA does not expressly disclose the plausibility sensor is a switch. Mazur discloses a device for detecting a vehicle side impact (fig 1-2) comprising an accelerometer (28) and a plausibility sensor being a switch (52; col. 5, lines 1-15). APA and Mazur are analogous because they are from the same field of endeavor, namely impact detectors. At the time of the invention by applicants, it would have been obvious to one skilled in the art to combine the sensors disclosed in APA with the switch disclosed in Mazur in order to trigger the safety device only when a critical threshold is exceeded.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited in the enclosed list disclose that pressure sensors have inlets and/or openings to allow the change in outside air pressure to be measured by the sensor.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADI AMRANY whose telephone number is (571)272-0415. The examiner can normally be reached on Mon-Thurs, from 10am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on (571) 272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2836

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J Sherry/
Supervisory Patent Examiner, Art Unit 2836

AA